

The Supreme Court - June 10, 2021

Today, the Supreme Court of the United States issued the following decision:

Borden v. United States, No. 19-5410: Under the Armed Career Criminal Act (“ACCA”), persons found guilty of illegally possessing a gun who have three or more prior convictions for a “violent felony” are subject to a mandatory 15-year minimum sentence. Here, petitioner Charles Borden, Jr., argued that his predicate offense for reckless aggravated assault in violation of Tennessee law was not a violent felony for ACCA purposes. Under the “categorical approach” used by the courts, the focus is on the ACCA’s elements clause, and whether the elements of the state offense necessarily involve the defendant’s “use, attempted use, or threatened use of physical force against the person of another.” See 18 U.S.C. §924(e)(2)(B)(i). The District Court held that reckless offenses qualify as violent felonies under the ACCA, and the Sixth Circuit affirmed. Today, a fractured Court reversed and remanded the Sixth Circuit’s holding that an offense with a mental state of recklessness may qualify as a “violent felony” under the ACCA’s elements clause, §924(e)(2)(B)(i). Justice Kagan, in an opinion joined by Justices Breyer, Sotomayor, and Gorsuch, concluded that the elements clause’s definition of “violent felony” does not include offenses criminalizing reckless conduct. Justice Thomas concurred in the judgment, concluding that the elements clause does not encompass Borden’s conviction for reckless aggravated assault, while expressing concern that the consequences of the Court’s judgment are at odds with the ACCA’s larger statutory scheme. Justice Kavanaugh filed a dissent, joined by Chief Justice Roberts, Justice Alito, and Justice Barrett.

View the Court's [decision](#).

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